

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DENYS NAMYSTIUK,

No. C 15-03078 WHA

Plaintiff,

v.

**ORDER REVOKING IN FORMA
PAUPERIS STATUS ON APPEAL**

SMITH BARNEY and JAINA SYSTEMS
NETWORK, INC.,

Defendants.

After plaintiff Denys Namystiuk failed to appear at the initial case management conference, an order dismissed his case for failure to prosecute and for lack of subject-matter jurisdiction because the complaint was incomprehensible (Dkt. No. 22). Plaintiff then filed a motion for reconsideration, stating that he would not come to the United States to litigate this case and wished to remain in the Ukraine, and litigate via phone conference. An order denied that motion and plaintiff filed a notice of appeal (Dkt. No. 27).


Plaintiff then filed a second motion titled “motion for leave to file 1th [sic] motion for reconsideration.” This second motion again stated that plaintiff would not come to the United States to litigate and raised essentially the same points made in plaintiff’s first motion for reconsideration. An order denied plaintiff’s second motion for reconsideration because it was largely incomprehensible and added nothing not addressed in plaintiff’s first motion.

1 After an order denied plaintiff's second motion for reconsideration, he filed a motion "to
2 set aside (cancel) order" (Dkt. No. 32). Presumably because he did not like the undersigned
3 judge's previous orders, plaintiff set his latest motion for a hearing before Judge Thelton
4 Henderson.

5 Now, our court of appeals has referred plaintiff's appeal to the district court to determine
6 whether plaintiff's in forma pauperis status should continue on appeal. In *Hooker v. American*
7 *Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002), our court of appeals held that revocation of IFP
8 status is appropriate where the district court finds the appeal to be frivolous. Based on
9 plaintiff's incomprehensible pleadings, refusal to come to the United States to litigate his case,
10 and redundant motions for reconsideration, this order finds plaintiff's appeal to be frivolous and
11 hereby **REVOKES PLAINTIFF'S IFP STATUS**. The **CLERK SHALL PLEASE SERVE THIS ORDER** on
12 the United States Court of Appeals for the Ninth Circuit.

13
14 **IT IS SO ORDERED.**

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16 Dated: December 11, 2015.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE